80-570

Supreme Court, U. S.
FILED
OCT 10 1980
MICHAEL RODAK, JR., CLERK

No._____

UNITED STATES SUPREME COURT

October Term 1980

Lowell M. Stroom, Petitioner
v.
Benjamin Civiletti, Respondent

On Petition for
Writ of Certiorari to
the United States Court of Appeals
for the District of Columbia Circuit
Before Judgment

# PETITION FOR WRIT OF CERTIORARI

Lowell M. Stroom, Pro Se
4030 Spruce Street
Philadelphia, Pennsylvania 19104
(215) LO 4-2728
(215) 387-0333

UNITED STATES SUPREME COURT October 1980

STROOM v. CIVILETTI

PETITION OF CERTIORARI

A. QUESTIONS PRESENTED

1. The Stroom Presidential Candidacy

(a) 1980 Presidential Candidacy, the Plaintiff, is deprived of 14th Amendment rights, Equal Protection of the Laws, due to the negligence of the Defendent. Plaintiff seeks relief in motions and petition presented to the Court which require Executive Orders.

(b) When the rights of citizens are dependent upon the faithful execution of the laws, officers of the United States are amenable to the law when they are negligent in their duties. (Marbury vs. Madison, 1 Crunch 137)

(c) The right of people to choose... (elect) is a right established and guaranteed by the Constitution. (US vs. Mosley, 238 US 383) Officials who deprive citizens of this right violate the

Constitution. (18 USC § 241)

(d) Any restriction on the right to vote strikes at the heart of representative government. (Reynolds vs. Sims, 377 US 533) Officials who attach restrictions to specific candidacies and not to others violate the Constitution. (18 USC § 595)

2. The 1980 Presidential Elections

(a) Plaintiff, in this Petition of Certiorari, seeks 1980 General elections which are consistent with Constitutional intent, and seeks Court Orders requiring Executive Orders, which provide for such elections.

(b) The US Constitution is the Supreme Law of the United States. State and Federal laws which conflict with the Constitution are null and void. (Marbury vs. Madison) Election procedures which conflict with Constitutional intent deprive the electorate of their voting rights by debasement and dilution. (Reynolds vs. Sims)

(c) The right to vote implies the right to nominate. Responsibilities for nominating Candidates are reserved for the people and for the States. (Amendment X, US Constitution) They are not delegated by the Constitution to others, and they can not be acquired.

(d) The balance of powers provisions of the Constitution, among the three Branches of Government, are undermined in Federal Elections which favor political parties.

(e) The Constitution does not seek to limit numbers of Candidates, but in providing for a Republican form of government, seeks to establish choices; it is an inclusive Doctrine rather than exclusive.

(f) The Executive Department must "take care that the laws are faithfully executed". (Article II, U. S. Constitution)

(g) Executive Orders are a means for implementing this directive, and for providing relief. They are issued frequently,

have been ruled within the Court's jurisdiction, and were established during the administration of George Washington.

B. PARTIES TO THE PROCEEDING

1. For the Defendant:

Mr. Civiletti, and attorney
The Solicitor General
Mr. James Carter, President.
(pending Court of Appeals motion for enjoining)

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H. (Does Not Apply)

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Note:

Letters refer to those contained in Rule 21.1 of the US Supreme Court, and to the Sections of this Petition.

C.1 Table of Authorities and Cases

(a) Authorities: Constitutional Intent

1. Madison, James; The Federalist Papers; "The Plan of the Convention Republican in Principle" no. XXXVIII

(*) 2. Madison, James; Records of the Federal Convention

(*) 3. Washington, George; Farewell Address to Congress

(b) Cases

(*) 4. Baker vs. Carr (369 US 206)

(*) 5. Marbury vs. Madison (1 Crunch 157)

(*) 6. Reynolds vs. Sims (377 US 533)

(*) 7. US vs. Mosley (238 US 383)

(*) Cases or authorities chiefly relied upon are marked by asterisks.

D. LOWER COURT OPINIONS

The Court's opinion in the United States District Court for the District of Columbia was adverse to the Plaintiff, ruling in favor of the Defendent's Motion to dismiss. See Appendix.

No opinions have been delivered by

the United States Court of Appeals for the District of Columbia Circuit.

E. JURISDICTION OF THE COURT

(i) The judgment of the U. S. District Court is dated 15 September 1980. The case was entered into the U. S. Court of Appeals for the District of Columbia Circuit 28 September 1980.

(ii) There have been no rehearings or extensions in this case.

(iii) (Does not apply)

(iv) The U. S. Supreme Court has jurisdiction in this case pursuant to 28 USC § 1254: "cases in the courts of appeals may be reviewed by the Supreme Court (1) by writ of certiorari granted upon the petition of any party to any civil...case, before or after rendition of judgment of decree."

Rule 18 of the U. S. Supreme Court "Certiorai to a Federal Court of Appeals Before Judgment" also applies. This is a

matter of "imperative public importance", the 1980 Presidential and General Elections. The election is 4 November 1980, and intensive campaigning is required prior to this date.

F. CONSTITUTIONAL PROVISIONS & STATUES

United States Constitution

(*) 1. Article II, the President. (No roles are delegated to political parties or other organizations.)

(*) 2. Article IV, (The Constitution guarantees a Republican form of government.)

(*) 3. Amendment X. (Rights not delegated by the Constitution are reserved for the States and the People.)

(*) 4. Amendment XIV. (The Constitution requires 'equal protection of the laws'.)

(*) 5. Amendment XII, Presidential Elections (No roles are delegated to political parties or to other organizations.)

U. S. Code

(*) 6. Title 3, the President. (No roles are delegated to political parties or to other organizations.)

7. Title 18, § 241 & 242, (Efforts by officers of the Government, or 'under the color of office', which deprive citizens of Constitutional guarantees, are a violation of the Constitution.

8. Title 18, § 595 ("A person employed in any administrative position by the United States...or any political subdivision...(who) uses his official authority for the purpose of interfering with, or affecting, the nomination or the election of any candidate for the office of President" violates the Constitution.)

9. Title 28, Chapter 13, the Attorney General. (All functions of the Department of Justice are vested in the Attorney General.)

(*) Constitutional provisions chiefly relied upon are marked by asterisks.

## G. A CONCISE STATEMENT OF THE CASE

### G.1 The Candidacy

.1) In 1976, the Stroom Candidacy was concerned that Americans were not provided with choices of excellence and candidates of merit in the elections for the Office of the Presidency. The Candidacy stated, within its means, the case for the selection of a Candidacy which brought merit to the Executive Office of the Nation. This advocacy of excellence and merit in the Office of the Presidency brought the Candidacy great popularity in 1976.

.2) In the years since 1976, the Candidate, Mr. Stroom, travelled to areas far remote from Continental United States, and to states from New England to the Pacific region. People in all of these regions have indicated a familiarity with the Stroom Candidacy, or of the Candidacy's interest in public elective office. It is reasonable to assume that the Court also has a familiarity with the Stroom Candidacy.

.3) In August and September of 1979, Mr. Stroom notified the Justices of the United States Supreme Court of the interests of the Candidacy. This correspondence was entered into the Supreme Court logs.

.4) In December of 1979, Mr. Stroom made formal announcement of the Candidacy to all of the national news media, and registered the Candidacy with the Federal Election Commission in Washington, D. C. (FEC Number C00117713/P00001990) The Candidate met Constitutional requirements of

age and citizenship, and made expenditures with a view of bringing about his nomination and election to federal office. The Candidate has continued to file all reports which are required by the Federal Election Commission.

.5) In a series of news releases made available to the national news media, Mr. Stroom defined the issues of the campaign, emphasizing the high costs to the American people of an administration which lacks the essential expertise and skills for national office. Had the Candidacy had 'Equal Protection of the Laws' (Amendment XIV), and had these releases received public distribution as required by the Federal Communications Commission, (Communications Act, Section 315) the name of the Candidacy would have been listed on every primary ballot of the 1980 Presidential primary elections. The Candidacy filed a Complaint with the FCC after the first primary, noting

the urgency of correcting this violation of the laws. (FCC Reference: 8330-H / C3-426) Copies of this correspondence were also delivered to the Justices of the US Supreme Court in Washington, D. C., and to the FEC. The Federal Communications Commission, with full knowledge of these legal violations, took no action.

.6) The Candidacy participated in extensive correspondence with State Republican Party organizations, indicating our interests in participating in every primary, and also made preliminary filings with the Secretaries of State or Election Offices in each of the Primary States. In several states, the Republican Party may request that a list of names of candidates be placed on ballots. Had the Candidacy had 'Equal Protection of the Laws', (Amendment XIV), the Candidacy may thus have been placed on many State ballots. However, no State Party organization sponsored our name on State ballots, and

in 1980, the Republican Party was not a vehicle for democratically presenting Americans with choices among presidential candidacies.

.7) Where the Candidate's name was not placed on ballots, the Stroom Candidacy made efforts to establish a write-in Candidacy. News releases related to these efforts, and discussing the issues, were distributed to news media in each of the concerned states. Had the Candidacy had 'Equal Protection of the Laws' (Amendment XIV) the Candidacy is likely to have won some of these elections. None of the States or media have reported the results of the Candidacy's write-in efforts.

.8) Deficiencies in communications also created other complications. It limited Plaintiff's abilities in campaign funding, access to due process of law, and the participation and travel of the Candidacy during the primaries. The Candidacy

intended to join in efforts with other candidacies for elective office, such as those for the Congress, which was not possible under the prevailing conditions. Had the Candidacy had 'Equal Protection of the Laws' (Amendment XIV) an organizational structure would have been established which is likely to have produced election victories in several--even a majority--of the states.

.9) The Stroom Presidential Candidacy has had great popularity for several years, throughout the nation. We have had reasonable expectations for election in this year's elections, given effective, unrestricted communications, and 'Equal Protection of the Laws'. We seek relief in Motions before the Court, asking the Court to remove these unconstitutional constraints now, and to establish those conditions which are likely to have resulted had the Defendent not been negligent in his duties, had there been no restrictions on the Stroom Candidacy, and

had there been 'Equal Protection of the Laws'. The constraints are unconstitutional, and those who perpetuate them do so in violation of the Constitution. (18 U. S. Code § 241 & 242)

G.2 The 1980 Elections

.1) Plaintiff wishes to participate effectively in the 1980 elections, and to have those conditions established in the 1980 elections which are consistent with the Constitution's intent for Presidential elections. Specifically, the present election procedures do not provide for these Constitutional considerations:

(a) Republican and Democratic Parties have fulfilled no Constitutionally designated roles in the election process, and their names should not appear on election ballots. (Article II, Section I, Amendment XII, US Constitution; Title 3, U. S. Code)

(b) Political parties have not contributed to election processes in the best interests of the nation. To seek to limit nominations for the Office of the president is not in the best interests of the Nation, nor is it consistent with the Constitution's

intent. (Article II, Section I, Article IV, and Amendment XII, US Constitution)

(c) Political parties are national organizations which have deprived and usurped the states and the people of Constitutional guarantees and franchises. (Amendment X, US Constitution)

(d) The Constitution's intent is to provide for a Republican form of government, purely elective, of and by the people, which is the test of the Constitutionality of an election. (Article IV, US Constitution)

.2) The Plaintiffs seek relief from these unconstitutional election practices, in motions before the Court requesting Court Orders. The Orders require Executive Orders which establish an election, and thus a government, that is consistent with Constitutional intent.

G.3 The Plaintiff's Motions

.1) Plaintiff presents eight (8) motions for Court Orders. Motions 1 to 4 provide the Candidacy relief from conditions and restraints which have been attached to the Candidacy, but do not apply to all Candidacies--the 'unequal' protection of

the laws. Motions 5 to 8 are motions for Court Orders which establish Constitutional elections. All Orders are directed to the Defendent.

(a) Motion 1. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue an Executive Order and dispatch it immediately to the Secretaries of State in the 50 States, and to the Elections Office of the District of Columbia. The Order shall require that the name of Lowell M. Stroom of the Stroom Presidential Candidacy shall be listed on the Presidential Ballots of all of the 50 states participating in the national elections on November 4, 1980, and in the District of Columbia.

(b) Motion 2. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue an Executive Order immediately which provides the Stroom Presidential Candidacy '80, Mr. Lowell M. Stroom, the Presidential Candidate, and those associated in the Candidacy with all of the rights which are established by the Constitution, and removes immediately, governmental and executive constraints and conditions which have the effect of denying the Candidacy of essential communications and their Constitutional franchises.

(c) Motion 3. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue an Executive Order and dispatch it immediately to the Federal Election Commission in

Washington, D. C. The Executive Order shall require funding of the Stroom Presidential Candidacy '80, as registered on the FEC files, in amounts which are equal to those of the Republican and Democratic Presidential Candidates.

(d) Motion 4. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue an Executive Order and dispatch it immediately to the appropriate persons, which provides for the presence of Lowell M. Stroom, at all 'national events' which are announced, or intend, to present the choices which are offered and available to the national electorate in the 1980 Presidential Elections. The presence of Federally Licenses Broadcasters at such events shall establish the event as a 'national event'. The presence of the Stroom Candidacy at such events will be considered 'equal access and opportunity' as defined by Section 315 of the Communications Act.

The 1980 Elections

(e) Motion 5. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue and dispatch immediately, an Executive Order to the Secretaries of State in the 50 states, and to the Elections Office of the District of Columbia. The Order shall prohibit the printing and listing of the names of political parties on ballots which list Candidates for national offices--those offices which are created and governed by the United States Constitution--in the elections scheduled for November 4, 1980, and thereafter.

(f) Motion 6. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue and dispatch immediately, an Executive Order to the Secretaries of State in the 50 States, and to the Elections Office of the District of Columbia. The Order shall prohibit the expenditures of state and public funds which assist political parties in the selection of delegates to Party Convention, or Candidates for national offices established by the United States Constitution.

(g) Motion 7. The United States Supreme Court hereby orders that Mr. Benjamin Civiletti shall issue and dispatch immediately, an Executive Order to the Secretaries of State in the 50 States, and to the Elections Office of the District of Columbia. The Order shall request the states to appoint members to the Electoral College who will cast the state's votes in the 1980 Presidential Elections according to the directive of the state's electorate, without conflict of interest, or prior commitments to specific Candidates.

(h) Motion 8. The United States Supreme Court hereby orders Mr. Benjamin Civiletti to officially notify Mr. James Carter, President, in memorandum, that efforts to limit the numbers of Candidates to be considered by the Electorate for the Office of the President are unconstitutional, and are a violation of the Presidential Oath of Office. (Title 18 U.S. Code 595)

H. (DOES NOT APPLY)

I. FEDERAL JURISDICTION IN THE COURT OF THE FIRST INSTANCE

1. The United States District Court for the District of Columbia had jurisdiction in this case based upon 28 U. S. Code § 1331: "The district courts shall have original jurisdiction of all civil actions wherein the matter of controversy...arises under the Constitution, laws, or treaties of the United States...in any action brought against any officer (of the United States)."

2. The Plaintiff is a U. S. citizen and a resident of Philadelphia, Pennsylvania.

3. The Defendent is a U. S. Citizen, and an officer of the United States in the District of Columbia. The District Court for the District of Columbia had jurisdiction in the locale of the cause of action. (28 U. S. C. § 1391 (e))

J. ARGUMENT

1. The Writ of Certiorari

1.1 An 'Imperative Public Importance'

.1) Plaintiff's Petition involves a matter of 'imperative public importance'. It concerns the selection of the President of the United States in 1980. Such a matter presents the potential for altering the course of our Nation's and the world's history, of shaping world civilization in this, and in future decades.

.2) The duties of the Office offer opportunities for resolving many international disputes, some of which have extended over decades. The responsibilities of the Office include the Nation's 'Domestic Tranquility', leadership in nation-building, and the well-being of people throughout the Nation. The Stroom Candidacy has unique capabilities in these matters. No other Candidacy holds the confidence and friendship of the nations of the world, which is

essential for progress among the Nations. The resolution of international disputes is of 'imperative public importance'. Progress and prosperity in America are of 'imperative public importance'. If the defendents possessed the capabilities of the Stroom Candidacy, they would not hesitate to compete on an equal basis with the Plaintiffs.

.3) Plaintiffs contend further, that the achievements which the Candidacy is committed to, and is capable of providing, will do much to restore confidence in governmental institutions in the United States, which is an 'imperative public importance'.

1.2 Providing for Constitutional Integrity

.1) The provisions of Plaintiff's motions provide for Constitutional integrity in 1980, and in future elections, which is of 'imperative public importance'. It is the essence of democracy in the United States: 1) that the form of government is a Republican form which seeks to be inclusive,

and 2) that the people of the nation should not be deprived of choices in matters of national leadership, but rather, that the people should establish the choices.

.2) The Stroom Candidacy has had great popularity throughout the nation and around the world for several years. Failures of the Defendent to provide for 'Equal Protection of the Laws' debase and dilute the voting rights of every American, and diminish the expectations for freely elected government as the Constitution intends.

1.3 Time Considerations

.1) The time remaining prior to the elections does not allow for lengthy deliberations. Intense campaigning is generally considered to begin on or about September 1, with the elections on November 4, 1980. Plaintiff seeks an expedited hearing which establishes Justice. Delays in the resolution of these matters place the Candidacy at a disadvantage among the

competing Candidacies.

.2) These are matters of importance to people in all of the states. It is proper for the United States Supreme Court, a Court of national jurisdiction, to rule on this Petition and on the Motions in Expedited Hearing.

2. The Motions

2.1 A Special National Interest

.1) It is in the national interest that the controversy before the Court be resolved and expedited. A resolution will bring the provisions for elective office more nearly in conformity with Constitutional intent. It will revitalize our governmental institutions by providing for greater participation by the people in the selection of the officers of the United States Government, which is the Constitution's intent. It will instill greater confidence in governmental efforts, by making government more responsive, and more representative

of the people. Plaintiff urges the Court to give consideration to the following matters:

2.2 The Plaintiff, Lowell Stroom and the Stroom Presidential Candidacy

.1) THAT the Stroom Presidential Candidacy has had great popularity for several years. This popularity has been established in every State and in nations around the world. Effectively and Constitutionally, this consideration is sufficient to establish the Candidacy's nomination in Presidential balloting on November 4, 1980.

.2) THAT the Stroom Presidential Candidacy has a valid claim for remedy. The failure of the Defendent, by ommission or by intent, to provide for Constitutional guarantees, such as equally effective communications among the competing Presidential Candidates and 'Equal Protection of the Laws', has deprived the Plaintiff of the effective Candidacy which is likely

to have placed the Candidacy on ballots in the November 4, 1980, Presidential elections, and has deprived governmental processes of the dignity which the Constitution demands, and of which the Office of the President is worthy. (Amendment XIV, US Constitution)

.3) THAT whenever there is a right to execute an office, perform a service, or exercise a franchise, and a person is kept from that right, and has no other specific remedy, courts must assist, by such means as court orders, for reasons of justice and of public policy, to preserve peace, order, and good government. (Marbury vs. Madison, 1 Crunch 137)

.4) THAT the Plaintiff believes, in consideration of the support and the enthusiasm for the Candidacy over several years, in every state, that the Candidacy, with a favorable ruling on the motions for Court Orders, will win election to the Office of the President of the United States on

November 4, 1980.

2.3 The Defendent, Mr. Benjamin Civiletti, Attorney General

.1) THAT the Attorney General is the Chief Law Officer, the only law officer, of the executive department of the United States, charged with the responsibilities and efforts of the Executive Department which preserve constitutional government.

.2) All functions of the Justice Department are vested in the Attorney General. (28 U. S. Code, Chapter 13) The Attorney General is responsible for every legal effort of the Department of Justice, and for failures to act.

.3) When the rights of individuals and Americans are dependent on the performance of acts by governmental officials, officers are amenable to the laws for their conduct. The Attorney General has failed to be responsive to the Constitutional directives and guarantees which are discussed in Plaintiff's Petitions and Motions.

.4) Under normal conditions, the Attorney General should possess the skills, ability, and authority, to represent the government of the United States in determinations related to U. S. Constitutional Law.

2.4 The Courts:

.1) THAT the United States Constitution is the Supreme law of the land. State and Federal laws which conflict with the Constitution are null and void. (Marbury vs. Madison, 1 Crunch 137)

.2) Laws which are null and void (unconstitutional) are not an acceptable basis for procedures of government, all other considerations inclusive.

.3) The motions presented in Plaintiff's Petition concern matters of Law, as prescribed by the Constitution. It is the duty of the Attorney General to conform to these laws, and to perform duties related to questions of law. As an officer of the United States, he is bound by oath

to obey, and to faithfully and fairly execute the laws.

.4) A denial of Constitutionally protected rights demands judicial protection. The judicial oath of office requires no less. (Reynolds vs. Sims, 377 US 534)

2.5 The Constitution

.1) THAT the right to vote freely for the candidate of one's choice is the essence of a democratic society, and any restrictions on that right strike at the heart of representative government. And the right of sufferage can be denied by a debasement or dilution of the citizen's vote just as effectively as by wholly prohibiting the free exercise of franchise. (Reynolds vs. Sims, 377 US 533)

.2) No conditions may be attached to one candidacy which do not apply to all others. (Amendment XIV, US Constitution, Equal Protection of the Laws; 28 US Code § 595, No interference with Presidential Candidacies)

.3) The concept of 'we the people' under the Constitution visualizes no preferred class of voters, but equality among those who meet the basic qualifications. (Reynolds vs. Sims, 377 US 534) This legal principle applies to Candidacies as well.

.4) A citizen's right to vote free of arbitrary impairment by state action has been judicially recognized as a right secured by the Constitution. (Baker vs. Carr, 369 US 206)

.5) The Constitution does not delegate processes for nominating Presidential Candidates to any agent, nor does it require nominations. (Article II, US Constitution) Therefore, these rights are reserved for the people and for the states. (Amendment X, US Constitution) This franchise cannot be delegated or acquired. Efforts to acquire this franchise involve a usurpation of rights reserved for the people, which the authors of the Constitution sought to prevent. The

authors were particularily concerned with preventing tyranny, where there is a centralization of powers among a few individuals. (Madison, James: Records of the Federal Convention)

.6) The authors considered the roles of political parties in the Plan for Government, the United States Constitution. No roles were delegated. (George Washington: Farewell Address to the Congress)

.7) Congress has provided laws which protect the provisions of the Constitution. It is a violation of the Constitution to deprive any person, or the nation, of Constitutionally guaranteed rights. (18 US Code 241) It is a violation of the Constitution when officers of the Government interfer with Presidential Candidacies. (18 US Code § 595)

2.6 Elections and Voting Rights

.1) The right to vote is inherent in the Republican form of government envisaged

by Article IV, Section 4 of the Constitution. (Baker vs. Carr, 360 US 206)

.2) The right to vote implies the right to nominate.

2.7 Mr. James Carter, President

.1) THAT Article II of the Constitution directs that the President shall 'take care that the laws are faithfully executed'. There have been errors and ommissions in the performance of this task in recent years.

2.8 Executive Orders

.1) THAT Executive Orders are an accepted means for providing for relief, and for assuring that the 'laws are faithfully executed'. George Washington established this precedent during his administration. They are issued frequently by contemporary administrations.

.2) Supreme Court opinions have established that Executive Orders are within the Court's jurisdiction.

.3) The importance of the Constitutional provisions which are here being discussed and considered merit the use of Executive Orders. Our nation's government should not be left subject to inertia when vigor and initiative are required.

3. Concluding Statement

.1) The failure to resolve this controversy for more than four years has deprived the nation of effective government and leadership. This is indicated in the huge national debts which have been accumulated, and in the great waste of our nation's talents, resources, and capabilities.

.2) The citations of the ARGUMENT establish the validity of Plaintiff's motions, and the effective relief which is provided in them. An expeditious ruling by the Court will allow time for preparing the ballots which conform to the required Executive Orders, and for completing the other tasks which are provided for in the

Motions.

by Lowell M. Stroom
Pro Se

Lowell M. Stroom
4030 Spruce Street
Philadelphia,
Pennsylvania 19104
(215) LO 4-2728
(215) 387-0333

Dated: ber 6, 1980

Certificate of Service

I HEREBY CERTIFY that service on Plaintiff's "Petition of Certiorari" has been made personally to the Defendent's Attorney, United States Department of Justice, Washington, D. C., 20530; and to the Solicitor General, personally, Department of Justice, Washington, D. C. 20530.

by Lowell M. Stroom
Pro Se

Lowell M. Stroom

K. APPENDIX

1. Opinion of the Lower Court (Defendent's Motion to Dismiss) 36

2. Plaintiff's Motion 'C' in Court of Appeals for the District of Columbia Circuit, for Suspension of the Rules and the Enjoinment of Mr. James Carter, President, as an indispensible Defendant. (This Motion has not yet been ruled on by the Court.) 38

I. Opinion of the Lower Court (Defendent's Motion to Dismiss)

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| LOWELL M. STROOM, Presidential Candidate, Plaintiff, v. BENJAMIN CIVILETTI, Defendant. | Civil Action No. 80-2207 |

ORDER

This matter having come before the Court on defendant's Motion to Dismiss and plaintiff's Opposition thereto and the Court having considered the Motion and being fully advised in the premises and

It further appearing that this Court lacks jurisdiction under 28 U.S.C. § 1346 because this cause of action is not founded upon the Constitution, an Act of Congress or any regulation of an executive department and

It further appearing that the action is barred by sovereign immunity, Midwest Growers Co-op Corp. v. Kukemo, 533 F. 2nd 455, 465 (9th Cir. 1976); Dugan v. Rank, 372 U.S. 609 (1963), and

It further appearing that plaintiff has failed to join indispensable parties (i. 3. the Secretarys of State of all 50 states and the District of Columbia, and the Federal Election Commission), and

It further appearing that plaintiff has failed to state a claim upon which relief can be granted,

It is this 15th day of September, 1980 hereby

ORDERED that defendant's Motion to Dismiss be and the same is hereby granted and it is

FURTHER ORDERED that plaintiff's cause of action be dismissed

J. H. Pratt (signed)
UNITED STATES DISTRICT JUDGE

2. Plaintiff's Motion 'C' in the Court of Appeals for the District of Columbia Circuit, for Suspension of the Rules and the Enjoinment of Mr. James Carter, President, as an indispensible Defendent. (This motion has not yet been ruled on by the Court.)

| | |
|---|---|
| Lowell M. Stroom<br>Plaintiff.<br>v.<br>Benjamin Civiletti<br>Defendent. | Civil Action<br>File<br>No. 80-2153 |

MOTION 'C' FOR SUSPENSION OF THE RULES AND THE ENJOINMENT OF MR. JAMES CARTER, PRESIDENT

IN ACCORDANCE WITH Rule 2 of the United States Court of Appeals, Plaintiff moves for suspension of the Rules, and for the enjoinment of Mr. James Carter, President, as an indispensible defendent.

Lowell M. Stroom (signed)
Pro Se

Lowell M. Stroom
4030 Spruce Street
Philadelphia
Pennsylvania 19104
Telephone: (215) LO 4-2728

Dated: 25 September 1980